

CIVIL COVER SHEET

18-4614

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Cesar Bocachica, an incapacitated person by Idalia Maldonado, his guardian

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Bernard M. Gross
Two Penn Center, Suite 1820
Philadelphia, PA 19102 215-561-360

DEFENDANTS

Southeastern Transportation Authority and Total Transit Corp

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

Edward J. Tuite
620 Freedom Business Center, Suite 300
King of Prussia, PA 19406 610-354-8250

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

Plaintiff pleads violation of 42 U.S.C. Section 12181, et seq

Brief description of cause

Cesar M. Bocachica alleges civil rights violations of the ADA relating to the injuries sustained.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE 10/23/2018

SIGNATURE OF ATTORNEY OF RECORD

OCT 26 2018

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE

ER

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Cesar M. Bocachica, An Incapacitated
Person by Idalia Maldonado, his
Guardian

v.
Southeastern Pennsylvania Transportation
Authority (SEPTA) and Total TRANSIT Corp.

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CIVIL ACTION

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NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

10/26/18
Date

Edward J. Tipton
Attorney-at-law

DEFENDANTS
Attorney for

610 354 8483

Telephone

610 354 8299

FAX Number

EJTipton@mdwccg.com

E-Mail Address

OCT 26 2018

ER

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

18

4614

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Cesar Bocachica and Idalia Maldonado, 515 Magee Ave., Phila., PA 19111Address of Defendant: SEPTA, 1234 Market Street, 5th Floor, Phila., PA 19107, 3099 Orthodox Street, Phila., PA 19137 (Total Transit Corp)Place of Accident, Incident or Transaction: 24th and Oregon Avenue, Phila., PA

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when Yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes ☐ No ☒

I certify that, to my knowledge, the within case ☐ is ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE _____

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases.

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☒ 6. Labor-Management Relations
- ☒ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases

(Please specify) _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify) _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, _____, counsel of record or pro se plaintiff, do hereby certify

☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs.☐ Relief other than monetary damages is sought.

DATE _____

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38

OCT 26 2018

3400 ER

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

CESAR M. BOCACHICA, an :
Incapacitated person by IDALIA :
MALDONADO, his guardian :
V. :
SOUTHEASTERN PENNSYLVANIA :
TRANSPORTATION AUTHORITY :
(SEPTA) and TOTAL TRANSIT CORP. :

18 4614

**DEFENDANTS, SEPTA AND TOTAL TRANSIT CORP'S NOTICE OF REMOVAL OF
CIVIL ACTION TO FEDERAL COURT, EASTERN DISTRICT OF PENNSYLVANIA**

Defendants, Southeastern Pennsylvania Transportation Authority (hereinafter "SEPTA") and Defendant Total Transit Corp. hereby file this Notice of Removal of the instant matter from the Court of Common Pleas of Philadelphia County, Pennsylvania, where it is now pending to the United States District Court for the Eastern District of Pennsylvania and in support thereof avers as follows:

1. This matter involves an action filed by Plaintiff, Cesar M. Bocachica, an incapacitated person by Idalia Maldonado, his guardian in connection with an incident that took place on June 4, 2018 involving a CCTC Connect Paratransit vehicle.

2. Plaintiff filed a Civil Action Complaint in the Court of Common Pleas of Philadelphia County, Pennsylvania, titled Cesar M. Bocachica, an incapacitated person by Idalia Maldonado, his guardian v. Southeastern Pennsylvania Transportation Authority (SEPTA) and Total Transit Corp. and docketed as case number 180902339. A true and correct copy of Plaintiffs' Complaint from the State Court is attached hereto and marked as Exhibit "A". A true and correct copy of the Court of Common Pleas docket is attached hereto and marked as Exhibit "B".

3. The documents attached hereto as Exhibit "A" constitute all of the pleadings served upon Defendants in this action. In the Complaint, Plaintiff alleges the following:

16. Defendants, SEPTA and TOTAL are governmental entities and/or businesses providing demand-response paratransit services for individuals with disabilities and Defendants' operations affect commerce. Consequently, SEPTA and/or TOTAL are subject to Title III of the Americans for Disabilities Act ("ADA"), 42 U.S.C. §12181, et seq, in particular Section 304 thereof, 42 U.S.C. §12184.

17. The conduct previously alleged in Count One violates Title III of the ADA and the Federal Regulations promulgated pursuant to Title III, 28 C.F.R. part 36 and 49, C.F.R. parts 27, 37, and 38.

18. Title III of the ADA prohibits, *inter alia*, governmental entities primarily engaged in the business of transporting people with special needs and/or disabilities whose operations affect commerce from this community from discriminating against individuals with disabilities on the basis of their disability, and guarantees to them full and equal enjoyment of specified public transportation services.

19. Defendants, SEPTA and/or TOTAL have violated Title III of the ADA by, *inter alia*, failure to operate a service in a non-discriminatory manner, failing to insure that individuals with disabilities affecting their ability to ambulate and who use wheelchairs, have non-discriminatory, safe access to vehicle transportation services; and failing to insure that personnel are trained to be proficient regarding the safe operation of vehicles and equipment and with regard to the provision of respectful and courteous and proper service to passengers with disabilities.

4. This Court has original jurisdiction of this action of the provisions of 28 U.S.C. §1331, and it is one which may be removed to this Court by SEPTA and TOTAL pursuant to the provisions of 28 U.S.C. §1441(b) and that involves a matter arising under the United States Constitution and/or the laws of the United States.

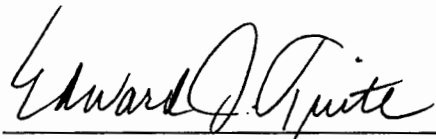
5. In accordance with 28 U.S.C. §1446(b), this Notice of Removal is filed within thirty (30) days after service upon Defendants.

6. Written notice of the filing of the Notice of Removal was provided to Plaintiff and a copy of this Notice of Removal and supporting papers will be filed with the Clerk of the State Court, as provided by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants, Southeastern Pennsylvania Transportation Authority and Total Transit Corp., pray that the above-described action against in the Court of Common Pleas of Philadelphia County, Pennsylvania, be removed to this Court.

**MARSHALL, DENNEHEY, WARNER,
COLEMAN AND GOGGIN**

BY:

A handwritten signature in black ink, appearing to read "Edward J. Tuite", is written over a horizontal line.

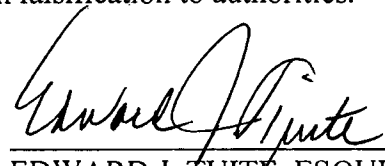
Edward J. Tuite, Esquire
State I.D. No. 34631
620 Freedom Business Center, Suite 300
King of Prussia, PA 19406

DATE: 10/26/18
LEGAL/119074384 v1

VERIFICATION

EDWARD J. TUIE, ESQUIRE hereby verifies that he is the attorney for Defendants, Southeastern Pennsylvania Transportation Authority and Total Transit Corp. in the aforementioned matter; that the facts set forth in the foregoing Notice of the Removal of the above captioned action to this Court pursuant to 28 U.S.C. § 1441 and § 1446 and the same are true and correct to the best of his knowledge, information and belief; and that these statements are made subject to the penalties relating to unsworn falsification to authorities.

Dated: 10/26/18


EDWARD J. TUIE, ESQUIRE

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

CESAR M. BOCACHICA, an :
Incapacitated person by IDALIA :
MALDONADO, his guardian :
V. :
SOUTHEASTERN PENNSYLVANIA :
TRANSPORTATION AUTHORITY :
(SEPTA) and TOTAL TRANSIT CORP. :
_____:

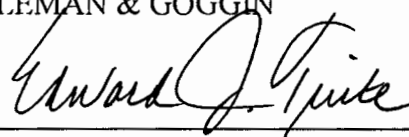
CERTIFICATE OF SERVICE

I, Edward J. Tuite, certify that on this date, I served a copy of Notice of the Removal of the above captioned action to this Court pursuant to 28 U.S.C. § 1441 and § 1446 via electronic filing, to the following counsel:

Bernard M. Gross, Esquire
Two Penn Center, Suite 1820
1500 JFK Blvd.
Philadelphia, PA 19102

MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN

BY:



Edward J. Tuite, Esquire
Attorney for Defendants SEPTA and
Total Transit Corp.

10/26/18

EXHIBIT "A"

Court of Common Pleas of Philadelphia County
Trial Division
Civil Cover Sheet

For Prothonotary Use Only (Docket Number)

SEPTEMBER 2018**002339**

E-Filed Number: 1809037434

PLAINTIFF'S NAME
CESAR M. BOCACHICA

DEFENDANT'S NAME
SEPTA

PLAINTIFF'S ADDRESS
515 MAGEE AVENUE
PHILADELPHIA PA 19111

DEFENDANT'S ADDRESS
1234 MARKET STREET 5TH FLOOR
PHILADELPHIA PA 19107

PLAINTIFF'S NAME
IDALIA MALDONADO

DEFENDANT'S NAME
TOTAL TRANSIT CORP

PLAINTIFF'S ADDRESS
515 MAGEE AVENUE
PHILADELPHIA PA 19111

DEFENDANT'S ADDRESS
3099 ORTHODOX STREET
PHILADELPHIA PA 19137

PLAINTIFF'S NAME

DEFENDANT'S NAME

PLAINTIFF'S ADDRESS

DEFENDANT'S ADDRESS

TOTAL NUMBER OF PLAINTIFFS

2

TOTAL NUMBER OF DEFENDANTS

2

COMMENCEMENT OF ACTION

☒ Complaint

☐ Petition Action

☐ Notice of Appeal

☐ Writ of Summons

☐ Transfer From Other Jurisdictions

AMOUNT IN CONTROVERSY

☐ \$50,000.00 or less

☒ More than \$50,000.00

COURT PROGRAMS

☐ Arbitration

☐ Jury

☒ Non-Jury

☐ Other

☐ Mass Tort

☐ Savings Action

☐ Petition

☐ Commerce

☐ Minor Court Appeal

☐ Statutory Appeals

☐ Settlement

☐ Minors

☐ W/D/Survival

CASE TYPE AND CODE

2V - MOTOR VEHICLE ACCIDENT

STATUTORY BASIS FOR CAUSE OF ACTION

RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)

RECEIVED

SEP 27 2018

**FILED
PROTHONOTARY**

SEP 18 2018

M. BRYANT

IS CASE SUBJECT TO
COORDINATION ORDER?

YES

NO

INTAKE/INTEL UNIT
TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant. CESAR M BOCACHICA , IDALIA MALDONADO
Papers may be served at the address set forth below.

NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY

BERNARD M. GROSS

ADDRESS

TWO PENN CENTER
SUITE 182C
1500 JFK BLVD
PHILADELPHIA PA 19102

PHONE NUMBER

(215) 561-3600

FAX NUMBER

(215) 561-3000

SUPREME COURT IDENTIFICATION NO

2571

E-MAIL ADDRESS

jim@bernardmgross.com

SIGNATURE OF FILING ATTORNEY OR PARTY

BERNARD GROSS

DATE SUBMITTED

Tuesday, September 18, 2018, 03:28 pm

FINAL COPY (Approved by the Prothonotary Clerk)

LAW OFFICES
BERNARD M. GROSS, P.C.
Two Penn Center
1500 JFK Blvd., Suite 1820
Philadelphia, PA 19102
Phone: 215-561-3600/Fax: 215-561-3000

Assessment of damages
 hearing is required.
 Filed in Records
 18 SEP 2018 03:28 pm



**CESAR M. BOCACHICA, an incapacitated
 person by IDALIA MALDONADO, his
 guardian**
515 Magee Avenue
Philadelphia, PA 19111

**COURT OF COMMON PLEAS
 PHILADELPHIA COUNTY**

SEPTEMBER TERM, 2018

v.

NO. 2339

**SOUTHEASTERN PENNSYLVANIA
 TRANSPORTATION AUTHORITY(SEPTA)**
1234 Market Street, 5th Floor
Philadelphia, PA 19107
and
TOTAL TRANSIT CORP.
3099 Orthodox Street
Philadelphia, PA 19137

CIVIL ACTION

PLAINTIFF(S) DECLINE(S) TO PROVIDE INFORMATION REGARDING DATE OF BIRTH

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

**PHILADELPHIA BAR ASSOCIATION
 LAWYER REFERRAL and INFORMATION SERVICE
 One Reading Center
 Philadelphia, Pennsylvania 19107
 (215) 238-6333**

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias, de plazo al partir de la fecha de la demanda y la notificacion. Haga falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAMA POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

**ASOCIACION DE LICENCIADOS DE FILADELFA
 SERVICIO DE REFERENCIA E INFORMACION LEGAL
 One Reading Center
 Filadelfia, Pennsylvania 19017
 Telefono: (215) 238-6333**

1. Plaintiff, Cesar M. Bocachica, is an incapacitated, special needs adult individual by reason of being legally blind and having profound mental retardation marked by cerebral palsy, congenital hydrocephalus, obstructive hydrocephalus, seizure disorder and development delay, residing at 515 Magee Avenue, Philadelphia, PA 19111.

2. Idalia Maldonado is an adult individual residing at 515 Magee Avenue, Philadelphia, PA 19111. Ms. Maldonado is the guardian of the incapacitated Plaintiff, Cesar M. Bocachica.

3. Defendant, Southeastern Pennsylvania Transportation Authority, (hereinafter referred to as "SEPTA") is a governmental entity doing business in the City and County of Philadelphia, Commonwealth of Pennsylvania, having its principal business office located at 1234 Market Street, 5th Floor, Philadelphia, PA 19107.

4. Defendant, Total Transit Corp., (hereinafter referred to as "TOTAL") is a corporation doing business in the City and County of Philadelphia, Commonwealth of Pennsylvania, having its principal regional business office located at 3099 Orthodox Street, Philadelphia, PA 19137.

5. At all times material, Defendants SEPTA and TOTAL, were for-profit businesses that *inter alia* provided transportation services for special needs individuals in and about the City of Philadelphia, by and through the ownership, lease, operation and/or maintenance of a fleet of CCT Connect paratransit vehicles.

6. At all times material to the below referenced accident involving the Plaintiff, Defendant, SEPTA, acted or failed to act by and through its agents, servants, workmen and/or employees who were then and there acting within the scope of their authority and/or within the course of their employment with Defendant, SEPTA, in furtherance of SEPTA's business and on behalf of SEPTA.

7. At all times material to the below referenced accident involving the Plaintiff, Defendant, TOTAL, acted or failed to act by and through its agents, servants, workmen and/or employees who were then and there acting within the scope of their authority and/or within the course of their employment with Defendant, TOTAL, in furtherance of TOTAL's business and on behalf of TOTAL.

8. At all times material, Defendants individually and/or collectively acted as common carriers, owing the highest duty of care to their special needs and/or incapacitated passengers.

9. At all times material, Plaintiff, Cesar M. Bocachica was a passenger and business invitee in Defendant's CCT Connect paratransit vehicle #6780, which was being operated and controlled by an as of yet unidentified driver, who was operating said vehicle and all vehicle restraint systems and devices as the agent, servant, workman and/or employee with Defendants, or either Defendant, within the course and scope of his/her authority and/or employment with Defendants.

10. On or about June 4, 2018, at approximately 3:00 p.m. the as yet identified operator of the CCT Connect paratransit vehicle #6780, owned and operated by Defendants, did in the regular course of attending to Plaintiff's transportation needs, load Plaintiff who was then and there situated in a wheel chair, onto the CCT Connect vehicle by way of a mechanized lift, but after loading the Plaintiff onto the aforementioned vehicle, the operator failed to properly secure, harness, fasten and/or stabilize Plaintiff's wheel chair and/or person within the van, and as a result, soon after the operator started driving the van, at or about the intersection of 24th Street and Oregon Avenue, in Philadelphia, and while the van was in motion and accelerating, Plaintiff's wheelchair toppled over backwards, Plaintiff's feet were thrown over his head and the back of Plaintiff's chair landed violently onto the floor of the van as a result of which, Plaintiff suffered severe injuries hereinafter described.

COUNT I

CESAR M. BOCACHICA v. DEFENDANTS

NEGLIGENCE

11. Plaintiff, Cesar M. Bocachica hereby incorporates by reference the allegations contained in the above referenced paragraphs, inclusive as fully as though the same were herein set forth at length.

12. The aforementioned accident was caused by the negligence and carelessness of the Defendants, by and through their agent, servant and/or employee, acting within the course and scope of his/her agency and/or employment with Defendants, which consisted of the following:

- (a) failing to properly secure, harness, fasten and/or stabilize Plaintiff's wheel chair and/or person within the van;
- (b) failing to supervise Plaintiff, a special needs individual, so as to keep him reasonably safe from risk of harm or injury;
- (c) failing to inspect Plaintiff's attachment to the interior of said van to adequately to ensure that Plaintiff, a special needs individual, was properly secured within the van and safe;
- (d) failing to provide and maintain proper supervision of Plaintiff, a special needs individual, before Plaintiff toppled over;
- (e) failing to provide and maintain proper safety measures and precautions relating to the security and safety of the Plaintiff before operating the vehicle;

- (f) failing to properly and adequately hire and/or instruct the operator of the van as to the safe and proper procedure for securing wheel chair bound special needs individuals to ensure their security safety during the operation of the vehicle;
- (g) failing to operate the van at a safe speed, and in a safe and reasonable manner under the conditions presenting;
- (h) failing to use due care under the circumstances;
- (i) violating applicable and pertinent statutes and ordinances;
- (J) such other acts or omissions which will or may be discovered during the course of discovery in this litigation.

13. By reason of the above described occurrence, Plaintiff sustained serious bodily injuries to his head, body and extremities, some or all of which are or may be permanent including, but not limited to, acute left-sided back pain, hemoptysis, coughing up blood, passing blood, fever, pulmonary contusion and severe shock to the nerves and nervous system, as a result of which Plaintiff has suffered, still suffers and will continue to suffer for an indefinite time in the future, and which have prevented Plaintiff from attending to Plaintiff's daily duties and avocations, all to Plaintiff's great damage and loss.

14. As a result of the injuries herein above described, Plaintiff was and will continue to be obliged to expend various sums of money for medicine and medical treatment in and about endeavoring to treat Plaintiff of said injuries, all to Plaintiff's great financial damage and loss.

WHEREFORE, Plaintiff demands judgment against Defendants in a sum in excess of Fifty Thousand Dollars (\$50,000.00). The amount sued upon is in excess of that requiring submission to Compulsory Arbitration.

COUNT II

CESAR M. BOCACHICA v. DEFENDANTS

15. The Plaintiff, Cesar M. Bocachica, hereby incorporates by reference, the allegations contained in above referenced paragraphs, inclusive, as fully as though the same were herein set forth at length.

16. Defendants, SEPTA and TOTAL are governmental entities and/or businesses providing demand-response paratransit services for individuals with disabilities and Defendants' operations affect commerce. Consequently, SEPTA and/or TOTAL are subject to Title III of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12181, *et. seq.*, in

particular § 304 thereof, 42 U.S.C. § 12184.

17. The conduct previously alleged in Count I violates Title III of the ADA and the Federal Regulations promulgated pursuant to Title III, 28 C.F.R. part 36 and 49, C.F.R. parts 27, 37 and 38.

18. Title III of the ADA prohibits, *inter alia*, governmental entities primarily engaged in the business of transporting people with special needs and/or disabilities whose operations affect commerce from this community from discriminating against individuals with disabilities on the basis of their disability, and guarantees to them full and equal enjoyment of specified public transportation services.

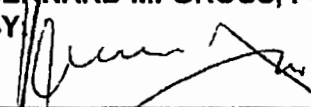
19. Defendants SEPTA and/or TOTAL have violated Title III of the ADA by, *inter alia*, failing to operate their services in a non-discriminatory manner, failing to ensure that individuals with disabilities effecting their ability to ambulate and who use wheelchairs, have non-discriminatory, safe access to vehicle transportation services; and failing to ensure that personnel are trained to be proficient regarding the safe operation of vehicles and equipment and with regard to the provision of respectful and courteous and proper service to passengers with disabilities.

20. By their actions in failing to protect Plaintiff, Defendants, SEPTA and TOTAL, violated Title III of the ADA and engaged in reckless, wanton and outrageous conduct done with reckless indifference to the interests of the Plaintiff and others similarly situated.

21. As a direct result of Defendants' reckless and wanton conduct done with reckless indifference to the interest of the Plaintiff, Plaintiff sustained the injuries, damages, and losses set forth above.

WHEREFORE, Plaintiff demands judgment against Defendants in a sum in excess of Fifty Thousand Dollars (\$50,000.00). The amount sued upon is in excess of that requiring submission to Compulsory Arbitration.

**LAW OFFICES
BERNARD M. GROSS, P.C.
BY**


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Philadelphia, PA 19102
Phone: (215) 561-3600
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Attorney for Plaintiffs

VERIFICATION

IDALIA MALDONADO, being duly sworn according to law, deposes and says that she is the guardian ad litem of **CESAR M. BOCACHICA**, the incapacitated person in this action, that she takes this Verification on his behalf as his guardian, to the facts set forth in the foregoing Civil Action Complaint are true and correct to the best of her knowledge, information and belief.

This statement is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

(IM) 
IDALIA MALDONADO

EXHIBIT "B"


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Civil Docket Report

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Case Description

Case ID: 180902339
Case Caption: BOCACHICA ETAL VS SEPTA ETAL
Filing Date: Tuesday , September 18th, 2018
Court: MAJOR NON JURY EXPEDITED
Location: City Hall
Jury: NON JURY
Case Type: MOTOR VEHICLE ACCIDENT
Status: WAITING TO LIST CASE MGMT CONF





Related Cases*No related cases were found.***Case Event Schedule***No case events were found.***Case motions***No case motions were found.***Case Parties**

Seq #	Assoc	Expn Date	Type	Name
1			ATTORNEY FOR PLAINTIFF	GROSS, BERNARD M
Address:	TWO PENN CENTER SUITE 1820 1500 JFK BLVD PHILADELPHIA PA 19102 (215)561-3600		Aliases: none	
2	1		PLAINTIFF	BOCACHICA, CESAR M

Address:	515 MAGEE AVE PHILADELPHIA PA 19111	Aliases:	none	
3	1		PARENT NATURAL GUARDIAN-PLF	MALDONADO, IDALIA
Address:	515 MAGEE AVE PHILADELPHIA PA 19111	Aliases:	none	
4			DEFENDANT	SEPTA
Address:	1234 MARKET ST 5TH FLOOR PHILADELPHIA PA 19107	Aliases:	none	
5			DEFENDANT	TOTAL TRANSIT CORP
Address:	3099 ORTHODOX ST PHILADELPHIA PA 19137	Aliases:	none	
6			TEAM LEADER	SHIRDAN-HARRIS, LISETTE
Address:	692 CITY HALL PHILADELPHIA PA 19107	Aliases:	none	

Docket Entries

Filing Date/Time	Docket Type	Filing Party	Disposition Amount	Approval/ Entry Date
18-SEP-2018 03:28 PM	ACTIVE CASE			18-SEP-2018 04:52 PM
Docket Entry:	E-Filing Number: 1809037434			

18-SEP-2018 03:28 PM	COMMENCEMENT OF CIVIL ACTION	GROSS, BERNARD M		18-SEP-2018 04:52 PM
Documents:	Click link(s) to preview/purchase the documents Final Cover			
	 Click HERE to purchase all documents related to this one docket entry			
Docket Entry:	none.			
18-SEP-2018 03:28 PM	COMPLAINT FILED NOTICE GIVEN	GROSS, BERNARD M		18-SEP-2018 04:52 PM
Documents:	Click link(s) to preview/purchase the documents complaint against septa pdf			
	 Click HERE to purchase all documents related to this one docket entry			
Docket Entry:	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 FILED.			
18-SEP-2018 03:28 PM	WAITING TO LIST CASE MGMT CONF	GROSS, BERNARD M		18-SEP-2018 04:52 PM
Docket Entry:	none.			
27-SEP-2018 11:44 AM	AFFIDAVIT OF SERVICE FILED	GROSS, BERNARD M		27-SEP-2018 12:00 PM
Documents:	Click link(s) to preview/purchase the documents boca aff 20180927103935 pdf			
	 Click HERE to purchase all documents related to this one docket entry			
Docket Entry:	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON SEPTA BY PERSONAL SERVICE ON 09/27/2018 FILED. (FILED ON BEHALF OF IDALIA MALDONADO AND CESAR M BOCACHICA)			
01-OCT-2018 09:18 AM	AFFIDAVIT OF SERVICE FILED	GROSS, BERNARD M		01-OCT-2018 10:35 AM
Documents:	Click link(s) to preview/purchase the documents boca 20181001081305 pdf			
	 Click HERE to purchase all documents related to this one docket entry			
Docket	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON TOTAL TRANSIT CORP BY PERSONAL SERVICE ON 09/29/2018 FILED.			

Entry: (FILED ON BEHALF OF IDALIA MALDONADO AND CESAR M BOCACHICA)

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